

Notice of Allowability

Application No.

09/714,793

Examiner

Mark A Mais

Applicant(s)

NELSON, WILLIAM M.

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment of January 19, 2005.
2. ☒ The allowed claim(s) is/are 1-44.
3. ☒ The drawings filed on 11 November 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Allowable Subject Matter

1. Claims 1-44 are allowed.
2. The following is an examiner's statement of reasons for allowance:

The Examiner has not found a method for handling multiple data segments between a first and a second node which (1) obtains a first parse state based on a first data segment of multiple data segments, (2) obtains a first search state based on the first data segment associated with obtaining the first parse state; (3) obtains a second parse state based on (a) a second data segment of the multiple data segments and (b) the first parse state; (4) obtains a second search state that is based on (a) the second data segment, and (b) the first search state that is associated with obtaining the second parse state; (5) obtains a third parse state based on (a) a third data segment of the multiple data segments and (b) the second parse state; and (6) outputs the search results based on the second search state that is associated with obtaining the third parse state.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

4. Applicant argues that the interpretation of "means plus function" language in claim 43 is statutorily mandated by 35 USC 112, paragraph 6 (citing MPEP §2181) [**Applicants arguments dated January 19, 2005, page 3, paragraph 3**]. Applicant further states that "means plus function" claims (and, therefore, Applicant's claim 43) incurring 35 USC 112, paragraph 6

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interpretation must be interpreted in light of the specific algorithms specified in the specification (citing MPEP §2182) [*see. Id.*, page 3, paragraph 6].

5. An Examiner's examination of means-plus-function claims is tied to the examination of not only 35 USC 112, paragraph 6, but also to paragraphs 1 and 2 [MPEP §2181]. Moreover, when performing the special 35 USC 112, paragraph 6 "reasonable" interpretation of a means-plus-function claim, Applicant still has the burden of precise claim drafting under 35 USC 112, paragraph 2 [§2181, citing *In re Morris* 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)].

6. First, Examiner has determined that the written description, to include claims independent 1, 28, and 42, explicitly meets the 35 USC 112, paragraph 1 definiteness requirement in a way that one skilled in the art would understand the structure of claim 43 will perform the recited function (wherein Applicant has pointed examiner to the function in terms of the algorithms described in the text associated with Figs. 3, 4A, 4B, and 5) [Applicants arguments dated January 19, 2005, page 4, paragraph 3]. In addition, the Examiner has also determined that the corresponding structure is described in the specification in specific terms such that one skilled in the art could identify the structure, in compliance with 35 USC 112, paragraph 2 [MPEP §2181]. Specifically, the Examiner has interpreted the "means for parsing..." and "means for searching..." and "means for outputting..." of claim 43, as linking the (1) multiple parse states and (2) multiple search states on (3) multiple data segments, to (4) the output of a specific result based on the specific algorithms disclosed in the specification—specifically specified in Examiner's Reason's for Allowance above [paragraph 2].

7. In this application, the Examiner determined that the “mean plus function” language used in Applicant’s claim 43 links the (1) means for performing the functions to (2) the specific functions (parsing and searching of data segments) and (3) achieving a specific result (outputting the specific result) [in accordance with MPEP §2181]. Moreover, Applicant cites *In re Donaldson* [29 USPQ2d 1845 (CAFC 1994)] when arguing that the “means plus function” claims must be interpreted in light of the specification [Applicants arguments dated January 19, 2005, page 4, paragraphs 3-4]. It should be noted that *In re Donaldson* also states that, when interpreting claims under 35 USC 112, paragraph 6, that those means-plus-function claims are employed at the exact point of novelty [*In re Donaldson*, 29 USPQ2d 1845, 1849 (CAFC 1994)]. The Examiner has correspondingly interpreted the Applicant’s means-plus-function claim 43 (under the rubric of *In re Donaldson*) at the exact point of novelty—specifically specified in Examiner’s Reason’s for Allowance above [paragraph 2]. The Examiner has concluded that the means-plus-function language used in Applicant’s claim 43 must be interpreted under 35 USC 112, paragraph 6, and, thus, the Examiner cannot disregard the structure disclosed in Applicant’s specification corresponding to Applicant’s means-plus-function claim 43. Accordingly, claims 43 and 44 are allowed.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A Mais whose telephone number is (571) 272-3138. The examiner can normally be reached on 6:00-4:30.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 11, 2005

A handwritten signature in black ink, appearing to be 'W. Mais', with a long horizontal line extending to the right.